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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,296	11/18/2005	Ryozo Setoguchi .	108A 3788 PCT	7327
7590 06/05/2009 Quinn Emanuel Urquhart Oliver & Hedges, LLP Koda/Androlia 10th Floor 865 S. Figueroa Street Los Angeles, CA 90017			EXAMINER	
			CHU, DAVID H	
			ART UNIT	PAPER NUMBER
			2628	
			MAIL DATE	DELIVERY MODE
			06/05/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/557,296	<b>Applicant(s)</b> SETOGUCHI, RYOZO
	<b>Examiner</b> DAVID H. CHU	<b>Art Unit</b> 2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 19 March 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 8 and 15-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 8 and 15-23 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/1449) \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claim(s) 8 and 15-23 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention.**

Supreme Court precedent<sup>1</sup> and recent Federal Circuit decisions<sup>2</sup> indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, in claim 8, the setting of a normal line, setting a tangent line and the determining steps are not tied to an apparatus.

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<sup>1</sup> *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

<sup>2</sup> *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki (PGPUB Document No. US 2002/0005856).**

3. **Regarding claim 20,** Sasaki teaches a method for generating/displaying a plane shape, comprising the steps of:

- At each vertex of a triangle shape plane path that is based on a predetermined normal line and a predetermined positional information, determining a normal line which is equivalent to a predetermined tangent plane at a predetermined position; and utilizing a contact point information of the normal line and tangent plane, forming a basic patch for the triangle shape plane patch

[Sasaki teaches using normal vectors n1 and n2 at vertices P1 and P2 and a plane A perpendicular to the normal vectors to create a tangent vector B. Further, Sasaki teaches splitting the interval between vertices P1 and P2

Further Sasaki teaches that the interpolation/splitting teaching is done on triangle polygons as well]

[Sasaki, 0126, 0129, 0151]

4. **Regarding claim 21**, Sasaki teaches a method for generating/displaying a plane shape, comprising the steps of:

- At each vertex of a triangle shape plane patch that is based on a predetermined normal line and a positional information thereof, determining a normal line which is equivalent to a predetermined tangent plane at a predetermined position  
[Refer to the rejection above with respect to claim 20]
- With a basic patch formed by utilizing a normal line that is equivalent to a curved surface and an existing position thereof, forming an object shape  
[FIG. 15 shows a patch formed by utilizing the normal line to a curved surface.]

*Response to Arguments*

5. Applicant's arguments filed 3/19/2009, with respect to claims 8 and 15-19 have been fully considered and are persuasive. The 35 USC 102(b) rejection of claims 8 and 15-19 has been withdrawn.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID H. CHU whose telephone number is (571)272-8079. The examiner can normally be reached on M-F 9:30am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. H. C./  
Examiner, Art Unit 2628

/Kee M Tung/

Supervisory Patent Examiner, Art Unit 2628